

REMARKS

The Official Action constitutes a requirement for restriction and an election of species.

Applicants elect Group XI (autoimmune disease) and species (c) (organ-specific autoimmune disease) with traverse.

The foregoing amendments are affected to more particularly point out and distinctly define the subject matter of this invention.

Claims 1-10, 12, 14-15 and 17-30 are pending in this application.

Claim 29 has been amended to replace the specific diseases listed in the claim with “method of treating a patient for a condition where hormonal dysregulation, hyperinsulinaemia and/or insulin resistance are present.” Support for this amendment can be found in original claim 29 and page 30, line 15.

Claim 29 has also been amended to replace “equivalent ligand” with “fragment thereof.” Support can be found at page 9, lines 28-30, wherein it is indicated that an equivalent ligand means fragment of the antibody. Also, kindly note that the fragment language is consistent with the terminology used in parent application, Serial No. 09/463,158, now US Patent No. 6,689,359.

It is respectfully requested that the “antibody” of the method of Groups XI-XIV and the “fragment thereof” (i.e., “equivalent ligand”) of the method of Groups XV-XVIII be examined together. Kindly note that the antibody and “fragment thereof” were examined together in the parent.

New claim 30 is supported by original claim 29. The application does not specifically recite the terms “pre-IDDM or pre-NIDDM.” However, there is a detailed description of IDDM and NIDDM at pages 4-8 of the application, which also includes some discussion of the development of the diseases. For example, see page 4, lines 22-25, page 5, line 25 to page 6, line 2, page 8, lines 7-13 and page 25, lines 22 and 23 of the application. It is respectfully submitted that one of ordinary skill in the art would inherently recognize that the development of IDDM and NIDDM means the conditions of pre-IDDM and pre-NIDDM.

Turning to the Restriction Requirement, the Restriction Requirement is respectfully traversed for the following reasons.

Firstly, while the Restriction Requirement set forth a detailed enumeration of various inventions, the Restriction Requirement fails to set forth with particularity the invention which the Applicant wishes to prosecute in this application, namely the invention of claim 29 as amended. Accordingly, the Applicant respectfully requests that the Restriction Requirement be modified so as to be directed to the invention which the Applicant preferentially wishes to have examined.

Secondly, it is respectfully submitted that restriction between the different diseases was improper as the Examiner did not follow linking claim practice. Claim 29 is a linking claim, which links all of the diseases by a common method of treatment. This is especially relevant in view of the central disease mechanism. As noted in the abstract of the PCT publication, the invention provides antibodies recognizing molecules on secretory cells of various tissue targets of autoimmune disease, allowing a unifying method of preventing and treating autoimmune diseases and other conditions where hormonal dysregulation, hyperinsulinaemia and insulin resistance are involved.

Also, contrary to the position on item 4 on page 3 of the Restriction Requirement, the methods do not differ with respect to ingredients and method steps. In this regard, the methods involve the same ingredients (i.e., same antibody) and the same method steps (administering an effective amount of the antibody).

Although the restriction between the different diseases in claim 29 was improper, it was proper for the Examiner to request a species election. In fact, the Examiner should have issued a species election for all of the diseases in claim 29, instead of restricting between them.

Under species election practice, when multiple related species of an invention are claimed together, the Examiner can require the Applicant to elect a single species of the claimed invention. This is a procedural mechanism to enable the Examiner to identify the subject matter to begin his or her search.

Thus, it is respectfully submitted that the different diseases of claim 29 should have been subject to an election of species requirement and not restriction.

Favorable reconsideration and action on the merits is solicited. If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

Arpi MATOSSIAN-ROGERS

By: Warren M. Cheek, Jr.
Warren M. Cheek, Jr.
Registration No. 33,367
Attorney for Applicant

WMC/JFW/akl
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
March 16, 2006